

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARKO HOF SCHNEIDER,

Plaintiff,

v.

CITY OF VANCOUVER, EVERGREEN
SCHOOL DISTRICT,

Defendant.

CASE NO. 3:15-CV-05903-RBL

ORDER GRANTING
DEFENDANTS' MOTION FOR
SUMMARY JUDGEMENT

THIS MATTER is before the Court on Defendants' Motions for Summary Judgment [Dkt. # 23, 25]. Both the City of Vancouver and the Evergreen School District seek an order dismissing Hofschneider's remaining claims—all monetary—under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

Defendants argue Hofschneider's ADA and §504 claims should be dismissed because (1) he was not denied a public benefit and, (2) even if he was denied such a benefit, it was not on the basis of his disability. Additionally, they argue that his compensatory damages claims cannot survive because he cannot show the deliberate indifference required by both the ADA and §504.

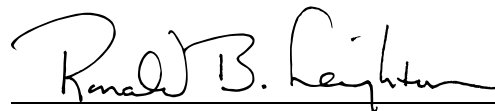
Hofschneider did not respond to the Defendants' motions.

1 The facts of this case have been thoroughly described in the Court's previous orders and
2 do not require repeating here. This Court will not construe Hofschneider's failure to respond as a
3 default admission that Defendants' motions have merit. *See* LCR 7(b); *Heinemann v. Satterberg*,
4 731 F.3d 914 (9th Cir. 2013). However, the City and the District both properly challenged
5 Hofschneider's evidence supporting his ADA and §504 claims. This shifts the burden to
6 Hofschneider to demonstrate a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S.
7 317, 322 (1986).

8 Hofschneider failed to produce any evidence to support a jury's finding that the City or
9 the District acted with deliberate indifference or intentionally discriminated against him based on
10 his disability. Therefore, no genuine issue of material fact is present. The Defendants' motion for
11 summary judgment is GRANTED and Hofschneider's remaining claims are DISMISSED with
12 prejudice.

13 IT IS SO ORDERED.

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15 Dated this 19th day of October, 2016.

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18 Ronald B. Leighton
19 United States District Judge
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